

**Fair Political Practices Commission**  
**MEMORANDUM**

To: Chairman Getman, Commissioners Downey, Knox and Swanson

From: Mark Krausse, Executive Director

Date: November 18, 2002

Subject: 2003 Legislative Proposals

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The Legislature will convene on December 2, 2002, for the swearing in of newly elected members. Bills may be introduced on that date, but the bulk of introductions will come in January and February. The last day to submit bill requests to the Office of Legislative Counsel is January 24, 2003, and the last day for bills to be introduced is February 21, 2003.

In 1999, the Commission adopted policy and planning objectives that set a high standard for legislative sponsorship. Noting that there had at that time been over 200 amendments to the Political Reform Act, the policy stated in part that “we will limit our legislative proposals to only those that greatly further our goal of simplification, correct potential Constitutional errors, or otherwise meet a heightened threshold of need.” With this standard in mind, Commission staff submitted the following legislative proposals for your consideration.

**Campaign/Proposition 34**

***Proposal 1 -- Prop 34 Limits on “Old” and “New” State Candidate Committees;  
Last-term Officeholder Expense Fundraising***

In September, the Commission directed staff to begin working on a legislative amendment to prohibit the receipt of contributions in excess of Proposition 34’s limits regardless of a committee’s pre- or post-Proposition 34 status. The language of Proposal 1 would accomplish that goal by subjecting all committees to limits. Staff recommends this bill be introduced as an urgency measure in order to make it immediately effective. If this language were to become law, amendment of Commission regulation 18531.6, and perhaps others, may be necessary. The text of the staff’s draft amendment is Exhibit 1 to this memo.

In addition, the Commission has commented on what it sees as the unfairness of the prohibition on officeholder expense fundraising effectively placed on last-term legislators by Section 85316. The attached language in this proposal also removes that inequity by allowing contribution-limited fundraising for a very narrow set of expenses related to holding office.

The following proposals are offered as technical clean-up changes. I recommend the Commission select all or any combination of these changes for inclusion in a single, technical clean-up measure. If the Commission agrees, I would attempt to have the bill introduced by the elections committee in one of the houses of the Legislature, as is traditionally done with Commission-sponsored clean-up measures. However, this would mean that any member of the committee could strike one or more of the specific provisions.

***Proposal 2 – deletes references to telegrams in favor of “guaranteed overnight delivery”***

The proposed amendments to sections 84101, 84103, 84108, 84203, and 84204 would eliminate telegrams as a method for filing late reports and other 24-hour filings, and make all of the filing methods consistent—facsimile transmission, guaranteed overnight delivery, or personal delivery. Currently, all of the sections refer to telegrams, and some refer to guaranteed overnight delivery through the United States Postal Service, which is no longer the only acceptable overnight delivery method. By advice letter, the Commission has said any guaranteed overnight delivery service is permissible.

Two of the sections (84101(c) and 84103(b)) also allow “online transmission,” which was added by legislation enacted in 2000 and 2001.

***Proposal 3 -- method of determining where general purpose committees file***

Section 84215 specifies where general purpose committees file their reports, according to whether the filer is a “state,” “county,” or “city” committee, as defined in section 82027.5. Every year, questions arise for committees that spend most of their money in a particular jurisdiction and a small amount elsewhere. For example, a major donor might contribute \$10,000 in Los Angeles and make a \$2,000 contribution to a state legislator. Under section 82027.5, the major donor would end up filing as a state committee, rather than in Los Angeles. On occasion, committees use this to get out of filing in local jurisdictions where most of their activity occurs.

This proposal would amend section 82027.5 to establish an 80-percent expenditure threshold (exclusive of overhead) for determining whether one is a state, county, or city committee.

***Proposal 4 – adds candidate's name to candidate-controlled committee name***

This proposal would amend section 84102 to require a candidate-controlled committee to include the name of the candidate in its name.

***Proposal 5 – judicial and municipal treasurer candidates—where to file***

This proposal would amend subdivisions (f) and (i) of section 87500 to require that statements of economic interests filed by candidates for city treasurer be forwarded to the Commission, and to require judicial candidates to file candidate statements of economic interests in the same place they file other candidacy papers, rather than with the clerk of the court. As 87200 filers, city

treasurers' statements are forwarded to the Commission. However, Section 87500 is unclear with regard to candidates for city treasurer. The court clerks are not familiar with the election process and do not know what to do with filings by non-incumbent candidates.

***Proposal 6 – aligns last days of 16-day and Prop. 34 late reporting periods***

This proposal would amend section 85204 to make the late reporting period in Chapter 4 and the 90-day election cycle in Chapter 5 consistent, both ending the day before the election. Currently, the late reporting period ends the day before the election, but the 90-day cycle runs through the day of the election.

***Proposal 7 – changes election references***

This proposal would remove references to the June primary and November general elections in section 81008 and replace them with more general references to the state primary and state general elections. It would also delete the requirement that the San Diego County Registrar of Voters be open on the Saturday before a state election since San Diego is not a state filing officer.

***Proposal 8 – deletes obsolete reference to officeholder account***

This proposal would strike a reference in section 84605 to officeholder accounts and section 85313. This reference is to an obsolete provision of Proposition 208. While section 85313 was repealed, the reference to it in section 84605 remains, which may lead to confusion.

***Proposal 9 – definition of cumulative contributions***

This proposal is to re-introduce the amendment sponsored by the Commission last year in the last-amended version of SB 3 (Perata). Under existing law, ballot measure advertisements must disclose the top two sources of “cumulative contributions” of at least \$50,000. Under the current definition of “cumulative contributions,” all contributors to a committee paying for a ballot measure advertisement are considered, regardless of how long before the advertisement in question the contributions were made. For example, a general purpose committee paying for a ballot measure advertisement would have to disclose its top contributor of \$50,000 or more even though the contributions may have been made many years before to support or oppose candidates and not the ballot measure in question. The August 15, 2002, version of Senate Bill 3 corrects this problem by effectively placing a time limit of between 14 and 22 months.

**SEI Filing Officer Duties**

***Proposal 10 – filing officer duties***

This proposal seeks to provide specific information on the type of notification that Form 700 filing officers must provide filers, the type of follow-up they must perform, when a filing officer should refer non-filers to the Commission’s Enforcement Division, and what liability filing officers have for failure to meet these and other obligations. This proposal was already approved by the Commission. Language is being developed by staff and is expected to be available by March. I am requesting the Commission’s approval to seek authorship of a placeholder or “spot” bill so that the proposal is not prejudiced by the February 21, 2003, introduction deadline.

***1. Proposal to apply Proposition 34 contribution limits to all state candidate committees for fundraising beyond net debt and to give all members the same officeholder expense fundraising ability.***

Limit language

**§ 85321. Pre-Proposition 34 Committee Post-election Fundraising**

**§ 85321.** (a) Notwithstanding any other provision of this chapter, if a candidate for elective state office, except candidates for statewide elective office, or the candidate's controlled committee had net debts resulting from an election held prior to January 1, 2001, contributions to that candidate or committee for that election are not subject to the limits of Sections 85301 and 85302. However, once the candidate or committee has raised an amount sufficient to pay net debts resulting from the election, subsequent contributions to the candidate or committee are subject to the limits of Sections 85301 and 85302 that were in effect on January 1, 2001.

(b) Notwithstanding any other provision of this chapter, if a candidate for statewide elective office or the candidate's controlled committee had net debts resulting from an election held prior to November 6, 2002, contributions to that candidate or committee for that election are not subject to the limits of Sections 85301 and 85302. However, once the candidate or committee has raised an amount sufficient to pay net debts resulting from the election, subsequent contributions to the candidate or committee are subject to the limits of Sections 85301 and 85302 that were in effect on November 6, 2002.

Officeholder expense fundraising language

§ 85316. (a) Except as provided in (b), a A contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) A contribution may be accepted after the date of an election to pay expenses related to holding office by an elected state officer who is ineligible for re-election under Article IV, Section 2 [legislators' term limits], Article V, Section 2, or Article V [governor's term limit], Section 11 [statewide officers' term limits] of the California Constitution. Contributions accepted under this subdivision are subject to Section 85301 and Section 85302, and may only be used for the purposes set forth in Section 89519 (b) (1) [debt retirement and officeholder expenses] and (6) [professional services such as attorneys' and accountants' fees, defense costs, and costs of election recounts].

***2. Proposals to eliminate telegrams as method of delivery of 24-hour filings and make all 24-hour filing methods in Chapter 4 consistent.***

**§ 84101. Statement of Organization; Filing.**

(a) A committee that is a committee by virtue of subdivision (a) of Section 82013 shall file with the Secretary of State a statement of organization within 10 days after it has qualified as a committee. The committee shall file the original of the statement of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has qualified as a committee. The Secretary of State shall assign a number to each committee that files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the clerk of each county which he or she deems appropriate. A county clerk who receives a copy of a statement of organization from the Secretary of State pursuant to this section shall send a copy of the statement to the clerk of each city in the county that he or she deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.7 or 84200.8, the committee shall file, by ~~telegram~~ facsimile transmission, guaranteed overnight delivery or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(c) If an independent expenditure committee qualifies as a committee pursuant to subdivision (a) of Section 82013 during the time period described in Section 82036.5 and makes independent expenditures of one thousand dollars (\$1,000) or more to support or oppose a candidate or candidates for office, the committee shall file by facsimile transmission, online transmission, guaranteed overnight delivery ~~telegram~~ or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization.

The information required by this section shall be filed with the filing officer with whom the committee is required to file the original of its campaign reports pursuant to Section 84215, and to file at all locations required for the candidate or candidates supported or opposed by the independent expenditures. The filings required by this section are in addition to filings that may be required by Sections 84203.5 and 84204.

(d) For purposes of this section, in calculating whether one thousand dollars (\$1,000) in contributions has been received, payments for a filing fee or for a statement of qualifications to appear in a sample ballot shall not be included if these payments have been made from the candidate's personal funds.

**§ 84103. Statement of Organization; Amendment.**

(a) Whenever there is a change in any of the information contained in a statement of organization, an amendment shall be filed within 10 days to reflect the change. The committee shall file the original of the amendment with the Secretary of State and shall also file a copy of the amendment with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(b) In addition to filing an amendment to a statement of organization as required by subdivision (a), a committee as defined in subdivision (a) of Section 82013 shall, by facsimile transmission, online transmission, guaranteed overnight delivery telegram, or personal delivery within 24 hours, notify the filing officer with whom it is required to file the originals of its campaign reports pursuant to Section 84215 when the change requiring the amendment occurs before the date of the election in connection with which the committee is required to file a preelection statement, but after the closing date of the last preelection statement required to be filed for the election pursuant to Section 84200.7 or 84200.8, if any of the following information is changed:

- (1) The name of the committee.
- (2) The name of the treasurer or other principal officers.
- (3) The name of any candidate or committee by which the committee is controlled or with which it acts jointly.

The notification shall include the changed information, the date of the change, the name of the person providing the notification, and the committee's name and identification number.

A committee may file a notification online only if the appropriate filing officer is capable of receiving the notification in that manner.

**§ 84108. Slate Mailer Organization; Statement of Organization.**

(a) Every slate mailer organization shall comply with the requirements of Sections 84100, 84101, 84103, and 84104.

(b) The statement of organization of a slate mailer organization shall include:

(1) The name, street address, and telephone number of the organization. In the case of an individual or business entity that qualifies as a slate mailer organization, the name of the slate mailer organization shall include the name by which the individual or entity is identified for legal purposes. Whenever identification of a slate mailer organization is required by this title, the identification shall include the full name of the slate mailer organization as contained in its statement of organization.

(2) The full name, street address, and telephone number of the treasurer and other principal officers.

(3) The full name, street address, and telephone number of each person with final decisionmaking authority as to which candidates or measures will be supported or opposed in the organization's slate mailers.

(c) The statement of organization shall be filed with the Secretary of State within 10 days after the slate mailer organization receives or is promised five hundred dollars (\$500) or more for producing one or more slate mailers. However, if an entity qualifies as a slate mailer organization before the date of an election in which it is required to file preelection statements, but after the closing date of the last campaign statement required

to be filed before the election pursuant to Section 84218, the slate mailer organization shall file with the Secretary of State, by facsimile transmission, guaranteed overnight delivery telegram or personal delivery within 24 hours of qualifying as a slate mailer organization, the information required to be reported in the statement of organization.

**§ 84203. Late Contribution; Reports.**

(a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, and the date and amount of the late contribution. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile transmission, ~~telegram,~~ guaranteed overnight ~~mail through the United States Postal Service,~~ delivery or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

**3. Proposal to amend the definition of “general purpose committee” to specify how a committee determines if it is a “state,” “county,” or “city” committee for purposes of when and where to file reports.**

**§ 82027.5. General Purpose Committee.**

(a) “General purpose committee” means all committees pursuant to subdivisions (b) or (c) of Section 82013, and any committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose more than one candidate or ballot measure, except as provided in Section 82047.5.

(b) A “state general purpose committee” is a committee whose expenditures to support or oppose candidates or measures voted on in a state election, or in more than one county, total 80 percent or more of the contributions and independent expenditures made by the committee.

(c) A “county general purpose committee” is a committee whose expenditures to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county, total 80 percent or more of the contributions and independent expenditures made by the committee.

(d) A “city general purpose committee” is a committee whose expenditures to support or oppose candidates or measures voted on in only one city, or in one consolidated city and county, total 80 percent or more of the contributions and independent expenditures made by the committee.

(e) For purposes of calculating the percentage set out in subdivisions (b) through (d), expenditures made to support or oppose candidates or measures during the current calendar year and the previous four calendar years will be counted.

***4. Proposal to require that a controlled committee name include the name of the controlling candidate or officeholder.***

**§ 84102. Statement of Organization; Contents.**

The statement of organization required by Section 84101 shall include:

(a) The name, street address, and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. Whenever a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee. In the case of a committee controlled by a candidate or elected officer, the name of the committee shall include the name of the controlling candidate or elected officer.

(b) In the case of a sponsored committee, the name, street address, and telephone number of each sponsor.

(c) The full name, street address, and telephone number, if any, of the treasurer and other principal officers.

(d) The full name and office sought by any candidate and the title and ballot number, if any, of any measure, which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation.

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate, or state measure proponent by which it is controlled, or the name of any controlled committee with which it acts jointly. If a committee is controlled by a candidate for partisan office, the controlled committee shall indicate the political party, if any, with which the candidate is affiliated.

(f) For a committee controlled by a candidate for his or her election, the name and address of the financial institution where the committee has established an account and the account number.

(g) Such other information as shall be required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter.

***5. Proposal to clarify the place of filing of statements of economic interests for candidates for city treasurer and judicial candidates.***

**§ 87500. Statements of Economic Interests—Where to File**

...(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, the city treasurer, and candidates for and persons holding the office of city council member, city treasurer, city attorney, and mayor—one original with the city clerk who shall make and retain a copy and forward the original to the Commission which shall be the filing officer.

...(i) Judges, ~~and court commissioners, and candidates for the office of judge~~ – one original with the clerk of the court who shall make and retain a copy and forward the original to the Commission which shall be the filing officer. Original statements for candidates for the office of judge shall be filed with the person with whom the candidate's declaration of candidacy is filed, who shall retain a copy and forward the original to the Commission which shall be the filing officer.

***6. Proposal to amend section 85204 to make the 24-hour reporting cycle consistent with the late reporting period.***

**§ 85204. Election Cycle for 24-Hour Disclosure.**

“Election cycle” for purposes of Sections 85300 and 85500, means the period of time commencing 90 days prior to an election and ending on the ~~date of~~ day before the election.

***7. Proposal to amend section 81008 to remove specific references to the June and November state elections and to eliminate the requirement that the office of the Registrar of Voters of the County of San Diego be open the Saturday preceding those elections.***

**§ 81008. Public Records; Inspection; Reproduction; Time; Charges.**

(a) Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this title, nor shall any information or identification be required from such persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. In addition, the filing officer may charge a retrieval fee not to exceed five dollars (\$5) per request for copies of reports and statements which are five or more years old. A request for more than one report or statement or report and statement at the same time shall be considered a single request.

(b) Campaign statements shall be open for public inspection and reproduction from 9:00 a.m. to 5:00 p.m. on the Saturday preceding ~~an election held on the first Tuesday after the first Monday in June or November in even-numbered years~~ a state primary or state general election in the offices of Secretary of State, Registrar-Recorder of Los Angeles County, ~~Registrar of Voters of San Diego County~~ and Registrar of Voters of the City and County of San Francisco.

**8. *Proposal to conform electronic reporting threshold section to reflect repeal of Proposition 208's officeholder accounts.***

**§ 84605. Who Shall File Online.**

Beginning on July 1, 2000, and for all applicable reporting periods thereafter, the following persons shall file online or electronically with the Secretary of State:

(a) Any candidate, including appellate court and Supreme Court candidates and officeholders, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is fifty thousand dollars (\$50,000) or more. In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016, and officeholder accounts, as defined by Section 85313 prior to the repeal of Section 85313 by Stats. 2000, Ch. 102 (Proposition 34), shall be included. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that is first subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title. A committee, as defined in subdivision (c) of Section 82013, shall file online or electronically if it makes contributions of fifty thousand dollars (\$50,000) or more in a calendar year.

(b) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling fifty thousand dollars (\$50,000) or more to support or oppose candidates for any elective state office or state measure. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title.

(c) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of fifty thousand dollars (\$50,000) or more. For a slate mailer organization subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a slate mailer organization that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the organization is first subject to this title.

(d) Any lobbyist, lobbying firm, lobbyist employer or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents, provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is five thousand dollars (\$5,000) or more in a calendar quarter.

(e) The Secretary of State shall also disclose on the Internet any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204, respectively, not covered by subdivision (a), (b), or (c).

(f) Committees and other persons that are not required to file online or electronically by this section may do so voluntarily.

(g) Once a person or entity is required to file online or electronically, subject to subdivision (a), (b), (c), (d), or (f), the person or entity shall be required to file all subsequent reports online or electronically.

(h) It shall be presumed that online or electronic filers file under penalty of perjury.

(i) Persons filing online or electronically shall also continue to file required disclosure statements and reports in paper format. The paper copy shall continue to be the official filing for audit and other legal purposes until the Secretary of State, pursuant to Section 84606, determines the system is operating securely and effectively.

(j) The Secretary of State shall maintain at all times a secured, official version of all original online and electronically filed statements and reports required by this chapter. Upon determination by the Secretary of State, pursuant to Section 84606, that the system is operating securely and effectively, this online or electronic version shall be the official version for audit and other legal purposes.

**9. Proposal to amend definition of cumulative contributions**

**§ 84502. Cumulative Contributions.**

84502. "Cumulative contributions" means the ~~cumulative aggregated~~ contributions of each person to a committee ~~beginning the first day the statement of organization is filed under Section 84101~~ during the period commencing January 1 of the year prior to the year in which the ballot measure is submitted to the voters and ending within seven days of the time the advertisement is sent to the printer or broadcast station.